

REMARKS

Claims 1-35 are pending.

Claims 1-35 stand rejected.

I. EXAMINER INTERVIEW

The Applicant had an Examiner's interview with Mr. Jean B Fleurantin on November 5, 2003 to discuss his rejections of the claims. The Applicant pointed out that all of the Examiner's rejections, whether 102 or 103 were done using equivalences between the prior art and the claims of the present invention. The Applicant pointed out that the Examiner offered no explanation as to why he felt disclosure in the prior art and the claims were equivalent when there were few if any words in the prior recitation that were the same as the claim language. The Applicant discussed steps in claim 1 and 3 in particular. The Applicant also pointed out that the prior art references were diagnostic architectures of the IBM RIOS system that did not discuss method steps for managing reassignment of resources in an LPAR system. The Examiner said to send in the Applicant's response and stated that he would take the Applicant's arguments into consideration when reviewing the response.

II. REJECTION UNDER 35 U.S.C. § 102(b)

The Examiner rejected Claims 14-15 and 21-22 under 35 U.S.C. § 102(b) as being anticipated by a printed publication titled "RIOS Diagnostic Open Architecture" 12/1990 (hereafter "*RDOA*").

For a reference to anticipate a claimed invention, the reference must disclose every aspect of the claimed invention. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The Examiner states that per Claims 14 and 21, "*RDOA* teaches a method for managing dynamic resource reassignment within a system as claimed (sic) comprises the steps of determining first missing resources that are missing because of reassignment within said system (thus, system indicates whether system checkout or option checkout was chosen, dmode indicates the mode of operation diagnostics testing, error log analysis, missing device diagnostics, the date from which the error log should be scanned; which is equivalent to determining first missing resources that are missing because of reassignment within said system) (see page 2, lines 10-13); and

updating a missing resource List by deleting any of said first missing resources which are included in said missing rescue List (thus, the following information is repeated per part that needs to be replaced, DB indicate whether the part this is named is presented in device database; which is readable as updating a missing resource List by deleting any of said first missing resources which are included in said missing resource List)" (see page 2, lines 34-36).

Claim 14 recites a method for managing dynamic resource reassignment within a system comprising two steps. Step 1 recites determining first missing resources that are missing because of reassignment within the system, and step 2 recites updating a missing resource List by deleting any of the first missing resources which are included in the missing resource List. In rejecting step 1 of Claim 14, the Examiner cites page 2, lines 10-13 of *RDOA*. In this citation, *RDOA* teaches that (sic) "the input parameters to the diagnostic application are: advanced Indicates whether advanced- or customer-level diagnostics should be run. –system Indicates whether system checkout or option checkout was chosen. –dmode Indicates the mode of operation: diagnostic testing, error log analysis, missing device diagnostics, ... date The date from which the error log should be scanned." Claim 14 recites a method and the cited reference teaches what input parameters to the diagnostic application are. The Applicant fails to see how definitions of input parameters can be method steps. *RDOA*, page 2, lines 10-13 does not mention dynamic resource reassignment or determining first missing resources that are missing

because of reassignment within the system. The Examiner makes the unsupported and ambiguous assertion, following an iteration of the claim language of step 1 of Claim 14, that; (sic) "(thus, system indicates whether system checkout or option checkout was chosen, dmode indicates the mode of operation diagnostic testing, error log analysis, missing device diagnostics, the date from which the error log should be scanned: which is equivalent to determining first missing resources that are missing because of reassignment within said system." In his assertion, the Examiner is attempting to make a *prima facie* case for equivalence. The Applicant respectfully asserts that the Examiner has provided no rationale or explanation as to why one of ordinary skill in the art would equate input parameters to a diagnostic application as recited by *RDOA* are equivalent to a method step (step 1 of Claim 14). The Applicant respectfully asserts that the Examiner has not made a *prima facie* case of equivalence between step 1 of Claim 1 and the teachings of the cited material in *RDOA*.

In rejecting step 2 of Claim 14, the Examiner cites page 2, lines 34-36 of *RDOA*. In this citation, *RDOA* teaches that (sic) "The following information is repeated per part that needs to be replaced: DB Indicate whether the part that is named is represented in the device database. For example, cables are not represented. FN name The configuration database name of the part to be replaced." Claim 14 recites a method and the cited reference teaches what (sic) information is repeated per part to be replaced. The Applicant fails to see how definitions of information about physical parts can be equated to a method step. *RDOA*, page 2, lines 34-36 does not mention updating a resource list or deleting missing resources determined in step 1 from the resource list. The Examiner makes the unsupported and ambiguous assertion, following an iteration of the claim language of step 2 of Claim 14, that; (sic) "(thus, The following information is repeated per part that needs to be replaced: DB Indicate whether the part that is named is represented in the device database: which is readable as updating a missing resource List by deleting any of the first missing resources which are included in the missing resource List." In his assertion, the Examiner is attempting to make a *prima facie* case for equivalence. The Applicant respectfully asserts that the Examiner has provided no

rationale or explanation as to why one of ordinary skill in the art would equate information is repeated per part that needs to be replaced as recited by *RDOA* as equivalent to a method step (step 2 of Claim 14). The Applicant respectfully asserts that the Examiner has not made a *prima facie* case of equivalence between step 2 of Claim 1 and the teachings of the cited material in *RDOA*. Therefore, the Applicant respectfully asserts that the rejection of Claim 14 under 35 U.S.C. § 102(b) over *RDOA* is traversed for the reasons stated above.

The Examiner states that as per Claims 15 and 22, *RDOA* teaches the method as claimed, tagging said first missing resources in a system error log which are missing because of reassignment and cites *RDOA* page 2, lines 10-13. Claim 15 is dependent from Claim 14 and contains all the limitations of Claim 14. Claim 15 adds the step of tagging the first missing resources (of Claim 14) in a system error log which are missing because of reassignment. The Examiner cites the same material in *RDOA* to reject the step of Claim 15 as he used in rejecting step 1 of Claim 14.

In rejecting Claim 15, the Examiner cites the same material in *RDOA* as he used in rejecting step 1 of Claim 14; page 2, lines 10-13 of *RDOA*. In this citation, *RDOA* teaches that (sic) "the input parameters to the diagnostic application are: advanced Indicates whether advanced- or customer-level diagnostics should be run. –system Indicates whether system checkout or option checkout was chosen. –dmode Indicates the mode of operation: diagnostic testing, error log analysis, missing device diagnostics, ... date The date from which the error log should be scanned." Claim 15 recites the method of Claim 14 with the an added step and the cited reference teaches what input parameters to the diagnostic application are. The Applicant fails to see how input parameters can be method steps. *RDOA*, page 2, lines 10-13, does not mention tagging the first missing resources (of Claim 14) in a system error log which are missing because of reassignment. In his assertion, the Examiner offers no explanation why he thinks the recitation of *RDOA*, page 2, lines 10-13 teach the invention of Claim 15; the Examiner simply states that it is so. The Applicant respectfully asserts that the Examiner has not made a *prima*

facie case that the cited reference teaches the invention of Claim 15 as no one of ordinary skill in the art would find, input parameters to a diagnostic application, related to the method steps of Claim 14 and the added step of tagging first missing resources in a system error log that are missing because of reassignment. Therefore the Applicant respectfully asserts that the rejection of Claim 15 under 35 U.S.C. § 102(b) over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 14.

Claim 21 recites a computer program product that implements the method steps of Claim 14. The Examiner rejected Claim 21 under 35 U.S.C. § 102(b) as being anticipated by *RDOA* for the same reasons as Claim 14. The Applicant has shown that Claim 14 is not anticipated by *RDOA*. Therefore the Applicant respectfully asserts that the rejection of Claim 21 under 35 U.S.C. § 102(b) over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 14.

Claim 22 recites a computer program product that implements the method steps of Claim 15. The Examiner rejected Claim 22 under 35 U.S.C. § 102(b) as being anticipated by *RDOA* for the same reasons as Claim 15. The Applicant has shown that Claim 15 is not anticipated by *RDOA*. Therefore, the Applicant respectfully asserts that the rejection of Claim 22 under 35 U.S.C. § 102(b) over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 15.

III. REJECTION UNDER 35 U.S.C. § 103(a)

The Examiner rejected Claims 1, 5, 9, 11, 16-17, 23-24 and 28-31 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA*.

To establish a *prima facie* case of obviousness, the Examiner must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations.

Claim 1 recites a method for managing dynamic resource reassignment within a system comprising four steps. Step 1 recites tagging first missing resources in a system error log which are missing because of reassignment. Step 2 recites querying a configuration database in said system for resources identified as missing resources and adding said missing resources to a missing resource List as second missing resources. Step 3 recites updating said missing resource List by deleting any of said tagged first missing resources which are included in said missing resource List as second missing resources. Step 4 recites executing a missing resource options procedure on missing resources in said updated missing resource List.

The Examiner states that *RDOA* teaches step 1 of Claim 1 and cites *RDOA*, page 2, lines 10-13. *RDOA* states in the recitation of page 2, lines 10-13, that "the input parameters to the diagnostic application are: -advanced Indicates whether advanced- or customer-level diagnostics should be run. -system Indicates whether system checkout or option checkout was chosen. -dmode Indicates the mode of operation: diagnostic testing, error log analysis, missing device diagnostics, ... date The date from which the error log should be scanned." Nowhere in this recitation is there a mention, suggestion or teaching of tagging first missing resources in a system error log which are missing because of reassignment, there is only a mention of input parameters to a diagnostic application and a mention of modes of operation including error log analysis and missing device diagnostics. These only serve to indicate that the terms "error log" and "missing devices" are known in the art. Neither of these indications teach or suggest step 1 of Claim 1.

The Examiner states that *RDOA* teaches step 3 of Claim 1 and cites *RDOA*, page 2, lines 34-36. *RDOA* states in the recitation of page 2, lines 34-36, that "The following information is repeated per part that needs to be replaced: DB Indicate whether the part that is named is represented in the device database. For example, cables are not represented. -FName the configuration database name of the part to be replaced." Nowhere in this recitation is there a mention, suggestion or teaching of updating a

missing resource List by deleting any of the first missing resources which are included in the missing resource List. Nowhere does *RDOA* teach or suggest step 3 of Claim 1.

The Examiner states that *RDOA* teaches step 4 of Claim 1 and cites *RDOA*, page 2, lines 28-38. *RDOA* states in the recitation of page 2, lines 28-38, that "this method of naming parts to be replaced reduces the number of parts that need to be replaced on the average. –Source The Diagnostic Application's Code number that is used in Service Request Number Architecture. – Reason Code A number that is used in Service Request Number Architecture. – Msg A message number identifying the message providing an explanation for the diagnosis. - The following information is repeated per part that needs to be replaced: DB Indicate whether the part that is named is represented in the device database." Nowhere in this recitation is there a mention, suggestion or teaching of updating the missing resource List by deleting any of the tagged first missing resources which are included in the missing resource List as second missing resources. Nowhere does *RDOA* teach or suggest step 4 of Claim 1.

The Examiner states that *RDOA* does not explicitly teach step 3 of Claim 1. The Examiner then states that the "*RDOA* implicitly indicates the former identifies the parts that need to be replaced and the latter provides solutions which can be performed without replacing parts" as recited in *RDOA* page 2, lines 7-8. The Examiner then asserts that the recitation of *RDOA*, page 2, lines 7-8, "is readable as querying a configuration database in the system for resources identified as missing resources and adding the missing resources to a missing resource List as second missing resources which is step 3 of Claim 1. First, the Applicant would like to point out that the statement that "the former identifies the parts that need to be replaced and the latter provides solutions which can be performed without replacing parts" is an explicit recitation in *RDOA*, page 2, lines 7-8. Secondly, the Applicant respectfully asserts that the Examiner has provided no justification as to why he considers this explicit statement to be readable as step 3 of Claim 1. Nowhere in this recitation is there a mention, suggestion or teaching of querying a configuration database in the sysem for resources identified as missing

resources and adding the missing resources to a missing resource List as second missing resources. Nowhere does *RDOA* teach or suggest step 3 of Claim 1. The Examiner further states that it would have been obvious to a person of ordinary skill to modify the teachings of *RDOA* with querying a configuration database in the system for resources identified as missing resources and adding the missing resources to a missing resource List as second missing resources. The Examiner is stating that if *RDOA* was modified by adding step 3 of Claim 1 then this modification (adding step 3 of Claim 1) would allow the teachings of *RDOA* to "provide a simple structure for diagnosing the system."

The Applicant fails to see how adding step 3 of the invention of Claim 1 to *RDOA* makes the present invention obvious over *RDOA*. The Applicant respectfully asserts that the Examiner has made the following circular argument: if you add step 3 of Claim 1 of the present invention to *RDOA*, then it would be obvious to one of ordinary skill in the art that *RDOA* so modified would allow *RDOA* to provide something that *RDOA* already states explicitly on page 2, lines 43-44. Therefore, the Applicant asserts that the rejection of Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above.

Claim 5 is an independent claim to a computer program product that implements the method steps of Claim 1. Claim 5 was rejected by the Examiner for the same reasons as Claim 1. Therefore, the Applicant asserts that the rejection of Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the same reasons as Claim 1.

Claim 9 is an independent claim to a computer system. The Examiner states "as per Claim 9 and 28, in addition to the discussion in Claim 1, *RDOA* teaches a central processing unit (CPU)" and cites *RDOA* page 1, line 2. This recitation of *RDOA* states "this system is composed of a device-independent command called the diagnostic controller and several device –dependent programs called diagnostic applications." *RDOA* is a description of the Open Architecture Diagnostics of an IBM system named

"RIOS". A diagnostics architecture is not a hardware system. This recitation of *RDOA* does not mention, teach or suggest the CPU of Claim 9.

The Examiner states that *RDOA* teaches a RAM and cites *RDOA* page 1, line 4. This recitation of *RDOA* states "There is a unique diagnostic application for each major area of the system. For example, SCSI disks, SCSI disk adapters, async cards, etc." This recitation of *RDOA* is describing which system components are covered in the *RDOA* diagnostic programs. This recitation of *RDOA* does not mention, teach or suggest the RAM of Claim 9.

The Examiner states that *RDOA* teaches a ROM and cites *RDOA* page 1, line 4-5. This recitation of *RDOA* states "There is a unique diagnostic application for each major area of the system. For example, SCSI disks, SCSI disk adapters, async cards, etc." This recitation of *RDOA* is describing which system components are covered in the *RDOA* diagnostic programs. This recitation of *RDOA* does not mention, teach or suggest the ROM of Claim 9.

All of the other elements of Claim 9 are rejected by the Examiner using the same arguments as he used relative to Claim 1. Claim 9, is teaching a computer that has circuitry for performing the method steps of Claim 1. Therefore, the Applicant asserts that the rejection of Claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 1.

The Examiner rejected Claim 28 for the same reasons as Claim 9. Claim 28 is an independent claim to a computer system that implements the method steps of Claim 14. Claim 1 does not have step 1 of Claim 14; "determining first missing resources that are missing because of reassignment within said system." Therefore, the Examiner failed to include a step in the rejection of Claim 28. Furthermore, the Applicant has shown that Claim 14 is not anticipated by *RDOA* and the Examiner has made no argument as to why he considers Claim 14 obvious over *RDOA*. Therefore, the Applicant respectfully asserts

that the rejection of Claim 28 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 14.

Claim 11 is dependent from Claim 9 and limits one of the first missing resources of Claim 9 to a device coupled to the I/O adapter. The Examiner states that "as per Claim 11, the limitations of Claim 11 are rejected in the analysis of Claim 9, and this claim is rejected on that basis. The Examiner has rejected Claim 11 for the same reasons as Claim 9. The Applicant has shown that Claim 9 is not obvious over *RDOA*. Therefore, the Applicant asserts that the rejection of Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the same reasons as Claim 9.

The Examiner states "as per Claims 16-17, 23-24, and 30-31, *RDOA* teaches the claimed subject matter except generating said missing resource List by querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List."

Claim 16 is dependent from Claim 14 and contains all the limitations of Claim 14. The Applicant has shown that Claim 14 is not anticipated under 35 U.S.C. § 102(b) under *RDOA*; which is the Examiner's rejection to Claim 14. In rejecting Claim 14, the Examiner asserted that the steps of Claim 14 were "equivalent to" and "readable as" citations within *RDOA*. Claim 16 adds the steps of: generating said missing resource List by querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List; and executing a missing resource options procedure on said missing resources in said updated missing resource List. The Applicant has shown that *RDOA* does not teach the steps of Claim 14. The Examiner now states that one of the steps of Claim 16 is not taught by *RDOA*. The Examiner then states that (sic) "*RDOA* teaches the former identifies the parts that need to be replaced and the latter provides solutions which can be performed without replacing parts" which is a recitation that appears on page 2, lines 7-8 of *RDOA*. The Examiner then makes the unsupported assertion that this recitation is readable as: querying a configuration database in said system for resources

identified as missing resources and adding said missing resources to said missing resource List. The Examiner is thus making the assertion that the recitation on page 2, line 7-8, which has not one substantive word in common with either step of Claim 16, is equivalent to querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List.

The Applicant fails to see the logic in such an assertion. Further, the Examiner then states that it would have been obvious to a person of ordinary skill in the art to modify the teachings of *RDOA* with querying a configuration database (a recitation of Claim 16 of the present invention). Then the Examiner states that modifying *RDOA* with this recitation of Claim 16 of the present invention would allow the teachings of *RDOA* to provide "a simple structure of diagnosing the system" which is something that *RDOA* already explicitly states on page 2, lines 43-44. Therefore, the Applicant asserts that the rejection of Claim 16 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above and for the same reasons as Claim 14.

Claim 17 is dependent from Claim 15 which is dependent from Claim 14 and as such contains all the limitations of Claims 14 and 15. The Applicant has shown that Claim 14 is not anticipated under 35 U.S.C. § 102(b) by *RDOA*; which is the Examiner's rejection to Claim 14. In rejecting Claim 14, the Examiner asserted that the steps of Claim 14 were "equivalent to" and "readable as" citations within *RDOA*. Claim 15 adds the step of tagging the first missing resources in a system error log which are missing because of reassignment. Claim 17 adds the steps of: generating said missing resource List by querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List; and executing a missing resource options procedure on said missing resources in said updated missing resource List. The Applicant has shown that *RDOA* does not teach the steps of Claim 14. The Examiner now states that the step in Claim 17 of generating said missing resource List by querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List is not taught by *RDOA*. The Examiner then states that (sic) "*RDOA* teaches the former

identifies the parts that need to be replaced and the latter provides solutions which can be performed without replacing parts" which is a recitation that appears on page 2, lines 7-8 of *RDOA*. The Examiner then makes the unsupported assertion that this recitation is readable as: querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List. First, the Examiner's "readable as:" is not a complete recitation of the first step of Claim 17. Claim 17 recites generating the missing resource list by querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List. Secondly, the Examiner is making the assertion that the recitation on page 2, lines 7-8, which has not one substantive word in common with either step of Claim 17, is equivalent to querying a configuration database in said system for resources identified as missing resources and adding said missing resources to said missing resource List, again not a complete recitation of the first step of Claim 17. The Applicant fails to see the logic in such an assertion. Further, the Examiner then states that it would have been obvious to a person of ordinary skill in the art to modify the teachings of *RDOA* with querying a configuration database (a partial recitation of a step of Claim 17 of the present invention). Then the Examiner states that modifying *RDOA* with this step of Claim 17 of the present invention would allow the teachings of RDOA to provide "a simple structure of diagnosing the system" which is something that *RDOA* already explicitly states on page 2, lines 43-44. Therefore, the Applicant asserts that the rejection of Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above and for the same reasons as Claims 14 and 16.

Claims 23-24 are dependent from independent Claim 21 and dependent Claim 22, respectively. Claim 21 is to a computer program product that implements the steps of Claim 14. Claim 22 is to a computer program product that implements the steps of Claim 15. Claim 23 is to a computer program product that implements the steps of Claim 16 and Claim 24 is to a computer program product that implements the steps of Claim 17. The Examiner rejected Claims 23-24 for the same reasons as Claims 16-17.

Therefore, the Applicant asserts that the rejections of Claims 23-24 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* are traversed for the reasons stated above and for the same reasons as Claims 16 and 17.

Claims 30-31 are dependent from independent Claim 21 and dependent Claim 22 respectively. Claim 21 is to a computer system that has circuitry that implements the steps of Claim 14. Claim 22 is to a computer system that has circuitry that implements the steps of Claim 15. Claim 23 is to a computer system that has circuitry that implements the steps of Claim 16 and Claim 24 is to a computer system that has circuitry that implements the steps of Claim 17. The Examiner rejected Claims 30-31 for the same reasons as Claims 16-17. Therefore, the Applicant asserts that the rejections of Claims 30-31 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* are traversed for the reasons stated above and for the same reasons as Claims 16 and 17.

The Examiner states that as per Claim 29, *RDOA* teaches the method as claimed and cites *RDOA*, page 2, lines 10-13. Claim 29 is dependent from Claim 28 and recites the computer system of Claim 28 further comprising circuitry for tagging the first missing resources in a system error log which are missing because of reassignment. Claim 29 is to a computer system and not to a method. The Examiner's citation of *RDOA* teaches that (sic) "the input parameters to the diagnostic application are: advanced Indicates whether advanced- or customer-level diagnostics should be run. -system Indicates whether system checkout or option checkout was chosen. -dmode Indicates the mode of operation: diagnostic testing, error log analysis, missing device diagnostics, ... date The date from which the error log should be scanned." Nowhere in this citation of *RDOA* does *RDOA* teach or suggest the computer system of Claim 29. Further, the Examiner gives no rationale as to why he believes that input parameters to a diagnostic application are the same as the computer system of Claim 29. Therefore, the Applicant asserts that the rejection of Claim 29 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* is traversed for the reasons stated above.

The Examiner rejected Claims 2-4, 6-8, 10, 12-13, 18-20, 25-27 and 32-35 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of another publication "Recovery from Single Critical Hardware Resource Unavailability" dated 8/1993 (hereafter "*RSCHRU*").

The Examiner states "as per Claims 2-4, 6-8, 10, 12-13, 18-20, 25-27 and 32-35, *RDOA* teaches the claimed subject matter except wherein said dynamic resource reassignment occurs (sic) logical partition (LPAR) of (sic) a said system." The Examiner then states that *RSCHRU* teaches a logically (sic) portioned (LPAR) mode and cites page 1, lines 1-6 of *RSCHRU*. The Examiner further states that "it would have been obvious to a person of ordinary skill in the art to modify the teachings of *RDOA* and *RSCHRU* with (sic) logical partition." The Examiner states that "this modification would allow the teachings of *RDOA* and *RSCHRU* to improve the reliability of the method for dynamically allocating a device in an LPAR system."

RSCHRU teaches a mechanism for avoiding computer system(s) initial program load (IPL) after single critical hardware resource unavailability in a basic or logically partitioned mode. *RSCHRU* states that there are expected and unexpected single critical hardware resource unavailability. *RSCHRU* gives examples of both expected and unexpected single critical hardware resource unavailability. Neither expected and unexpected single critical hardware resource unavailability in *RSCHRU* includes dynamic resource reassignment within a system or an LPAR within a system. The only mention in *RSCHRU* of an LPAR is the statement the teachings of *RSCHRU* work in a basic or LPAR mode. The present invention is not claiming the idea of an LPAR, rather the present invention is teaching a method of dynamic resource reassignment in a system or an LPAR of the system.

Claim 2 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 2 further limits the method steps of Claim 1 to managing dynamic resource reassignment within an LPAR of the system. The Applicant has shown that *RDOA* does not teach or suggest the invention of Claim 1. *RDOA* teaches a diagnostics open

architecture for an IBM system RIOS. The Examiner makes no assertion that *RSCHRU* teaches or suggests the invention of Claim 1. The Examiner states that *RDOA* does not teach or suggest the limitation of Claim 2. However, the Examiner states that *RSCHRU* teaches an LPAR mode. There is no suggestion that the teachings of *RSCHRU* may be combined with the diagnostics open architecture taught by *RDOA*. The Applicant asserts that one of ordinary skill in the art would not find any motivation or teaching to combine *RDOA* and *RSCHRU* to arrive at the invention of Claim 2. The Examiner makes the unsupported argument that "it would have been obvious to a person of ordinary skill in the art to modify the teachings of *RDOA* and *RSCHRU* with logical partition." There is no suggestion or teaching one way or the other that the diagnostic architecture of *RDOA* would work for an LPAR. The Examiner states that "this modification would allow the teachings of *RDOA* and *RSCHRU* to improve the reliability of the method for dynamically allocating a device in an LPAR system. The Examiner is stating that modifying *RDOA* and *RSCHRU* to work within an LPAR would improve the reliability of a method that neither *RDOA* and *RSCHRU* teach or suggest either singly or in combination. Claim 2 of the present invention recites a method for managing dynamic resource reassignment within an LPAR of a system wherein the method steps are recited in Claim 1. Nowhere does *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 2. Therefore, the Applicant asserts that the rejection of Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claim 1.

Claim 3 is dependent from Claim 2 and adds a further limitation to Claim 2. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 3. The Examiner has rejected Claim 3 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claim 2.

Claim 4 is dependent from Claim 1 and adds a further limitation to Claim 1 wherein the configuration database is a configuration database for the LPAR within the system. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination teach or suggest the invention of Claim 4. The Examiner has rejected Claim 4 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 1 and 2.

Claim 6 is to a computer program product of Claim 5 which implements the steps of Claim 1 and contains all the limitations of Claim 5. Claim 6 further limits the computer program product of Claim 5 to managing dynamic resource reassignment within an LPAR of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 5. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 6. Rather, the Examiner has rejected Claim 6 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2.

Claim 7 is dependent from Claim 6 and adds a further limitation to Claim 6. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 7. The Examiner has rejected Claim 7 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claim 2.

Claim 8 is dependent from Claim 5 and adds a further limitation to Claim 5 wherein the configuration database is a configuration database for the LPAR within the system. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly

or in combination teach or suggest the invention of Claim 8. The Examiner has rejected Claim 8 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claim 2.

Claim 10 is dependent from Claim 9 and adds a further limitation to Claim 9 wherein the sub-system is an LPAR of the system. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 10. Rather, the Examiner has rejected Claim 10 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 10 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claim 2.

Claim 12 is dependent from Claim 10 and adds a further limitation to Claim 10 wherein the missing resources are tagged in response to reassignment from a first one of the LPARs of the system to a second one of the LPARs of the system. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 12. Rather, the Examiner has rejected Claim 12 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claim 2.

Claim 13 is dependent from Claim 9 and adds a further limitation to Claim 9 wherein the configuration database is a configuration database for the LPAR within the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 9. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 13. Rather, the Examiner has rejected Claim 13 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 13 under 35 U.S.C. § 103(a)

as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claims 2 and 9.

Claim 18 is dependent from Claim 14 and limits the dynamic resource reassignment to occur between LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the method of Claim 14. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 18. Rather, the Examiner has rejected Claim 18 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 14.

Claim 19 is dependent from Claim 15 which is dependent from Claim 14 and adds a further limitation to Claim 15 wherein the missing resources are tagged in response to reassignment from a first one of the LPARs of the system to a second one of the LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 14. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination teach or suggest the invention of Claim 19. Rather, the Examiner has rejected Claim 19 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claims 2 and 14.

Claim 20 is dependent from Claim 16 which is dependent from Claim 14 and adds a further limitation to Claim 16 wherein the configuration database is a configuration database for the LPAR within the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 14. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 20. Rather, the Examiner has rejected Claim 20 for essentially the same reasons as Claim 2. Therefore, the Applicant

asserts that the rejection of Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reason as Claim 2.

Claim 25 is dependent from Claim 21 and further limits the computer program product of Claim 21 to managing dynamic resource reassignment within LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 21. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 25. Rather, the Examiner has rejected Claim 25 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 25 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 21.

Claim 26 is dependent from Claim 22 and further limits the missing resources as being tagged in response to reassignment from a first one of the LPARs of the system to a second one of the LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 22. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 26. Rather, the Examiner has rejected Claim 26 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 26 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 22.

Claim 27 is dependent from Claim 23 and further limits the configuration database to a configuration database for the LPAR within the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 23. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 27. Rather, the Examiner has rejected Claim 27 for essentially the same reasons as Claim 2. Therefore, the Applicant

asserts that the rejection of Claim 27 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 23.

Claim 32 is dependent from Claim 31 which is dependent from Claim 29 and further limits the computer system of Claim 29 wherein the dynamic resource reassignment occurs between LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer system of Claim 29. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 32. Rather, the Examiner has rejected Claim 32 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 32 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 29.

Claim 33 is dependent from Claim 29 and further limits the missing resources as being tagged in response to reassignment from a first one of the LPARs of the system to a second one of the LPARs of the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 31. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 33. Rather, the Examiner has rejected Claim 33 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 33 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claims 2 and 29.

Claim 34 is dependent from Claim 30 and further limits the configuration database to a configuration database for the LPAR within the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 31. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 34. Rather, the Examiner has

rejected Claim 34 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 34 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claim 2.

Claim 35 is dependent from Claim 31 and further limits the configuration database to a configuration database for the LPAR within the system. The Applicant has shown that *RDOA* does not teach or suggest the computer program product of Claim 31. The Examiner does not specifically point out where *RDOA* and *RSCHRU*, singly or in combination, teach or suggest the invention of Claim 35. Rather, the Examiner has rejected Claim 35 for essentially the same reasons as Claim 2. Therefore, the Applicant asserts that the rejection of Claim 35 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of *RSCHRU* is traversed for the reasons stated above and the same reasons as Claim 2.

Throughout the Examiner's rejections of Claims 1-35, he used "which is readable as", "implicitly indicates", "which is equivalent to", to assert equivalence between statements in the prior art references and the present invention. There was no explanation from the Examiner why he believes teachings of the prior art were equivalent to recitations in the present invention. The Examiner states in several instances that it would be obvious to one of ordinary skill in the art to combine the recitations of the present invention with the prior art teachings to arrive at the present invention. The Examiner cannot use this type of circular argument to reject the claims of the present invention.

The Examiner is respectfully reminded that there is no motivation in any of the cited references to make such combinations or assertions. This is a broad, conclusory statement regarding teaching of references. Teachings must be clear and particular, and broad conclusory statements regarding the teachings standing alone are not evidence. *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000); *In re Dembiczak*,

175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999). The factual question of motivation is material to patentability and cannot be resolved on subjective belief and unknown authority. *In re Lee*, 277 F.3d at 1343-44, 61 U.S.P.Q.2d at 1434.

IV. CONCLUSION

The Applicant has traversed the rejections of Claims 14-15 and 21-22 under 35 U.S.C. § 102(b) as being anticipated by a printed publication titled "RIOS Diagnostic Open Architecture" 12/1990 (herein "*RDOA*").

The Applicant has traversed the rejections of Claims 1, 5, 9, 11, 16-17, 23-24 and 28-31 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA*.

The Applicant has traversed the rejections of Claims 2-4, 6-8, 10, 12-13, 18-20, 25-27 and 32-35 under 35 U.S.C. § 103(a) as being unpatentable over *RDOA* in view of another publication "Recovery from Single Critical Hardware Resource Unavailability" dated 8/1993 (herein "*RSCHRU*").

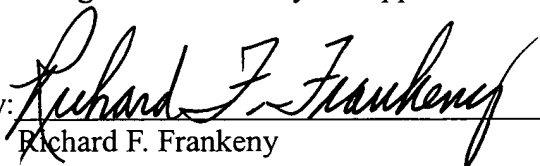
The Applicants, therefore, respectfully assert that Claims 1-35 are now in condition for allowance and request an early allowance of these claims.

Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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